

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 23, 2014

**Elisabeth A. Shumaker
Clerk of Court**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL SCOTT CALHOUN,

Defendant - Appellant.

No. 14-7036
(D.C. No. 6:12-CR-00061-RAW-1)

ORDER

Before **HARTZ**, **MATHESON**, and **PHILLIPS**, Circuit Judges.

Mr. Calhoun seeks to appeal from the district court's June 13, 2013 order denying defendants' motion to dismiss the indictment. Upon review of the parties' responses to this court's jurisdictional order of May 29, 2014, and based on a review of the file as a whole, the court dismisses this appeal.

As a general rule (and absent application of the collateral order doctrine), an appeal may not be taken in a criminal case until a final judgment has been entered. *See United States v. Tucker*, 745 F. 3d 1054, 1062 (10th Cir. 2014) ("[W]e generally lack jurisdiction to review appeals by criminal defendants before the district court enters final judgment") and 28 U.S.C. § 1291.


Here, no final judgment has been entered in Mr. Calhoun's criminal case and the matter remains pending with the district court. Although Mr. Calhoun and the government have reached a plea agreement and although that agreement has been docketed with the district court, it appears that the district court has not yet approved the agreement. Under these circumstances, Mr. Calhoun's notice of appeal, filed on May 12, 2014, is not sufficient to allow this court to exercise jurisdiction. *Compare United States v. Green*, 847 F. 2d 622 (10th Cir. 1988) (notice of appeal filed after entry and acceptance of conditional plea of guilty was sufficient under Fed. R. App. P. 4 (b)).

Accordingly, this court lacks jurisdiction to consider this appeal.

This order does not preclude Mr. Calhoun from filing a notice of appeal after the district court enters a final judgment.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read 'Christine Van Coney', with a long horizontal line extending to the right.

by: Christine Van Coney
Counsel to the Clerk